

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**JOINT URGENT MOTION BY AMBAC ASSURANCE CORPORATION,
THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,
THE COMMONWEALTH OF PUERTO RICO, AND THE PUERTO RICO
FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY,
SEEKING AN ORDER GRANTING AN ADJOURNMENT OF THE HEARING
ON THE PENSIONS DISCOVERY MOTIONS**

To the Honorable United States Magistrate Judge Judith Gail Dein:

Movant Ambac Assurance Corporation (“Ambac”) and Respondents The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), the Commonwealth of Puerto Rico (the “Commonwealth”), by and through the Oversight Board as the Commonwealth’s representative pursuant to section 315(b) of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), and the Puerto Rico Fiscal Agency and

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19 BK5523-LTS) (Last Four Digits of Federal Tax ID: 3801).

Financial Advisory Authority (“AAFAF,” and together with the Oversight Board and the Commonwealth, the “Respondents”),² respectfully submit this joint urgent motion (the “Joint Motion”) for entry of an order, substantially in the form attached hereto as **Exhibit A**, granting an adjournment of the hearing on Ambac’s *Motion To Compel Compliance with the Court’s December 15, 2017 and February 26, 2018 Orders Regarding the Urgent Joint Motion of the Ad Hoc Group of General Obligation Bondholders, Ambac Assurance Corporation, Assured Guaranty Corp., Assured Guaranty Municipal Corp., the Mutual Fund Group, and National Public Finance Guarantee Corporation for Order Authorizing Rule 2004 Examination* (Dkt. No. 7505) and *Motion for Entry of Order Authorizing Discovery Under Bankruptcy Rule 2004 Concerning Pensions Liabilities* (Dkt. No. 7507) (together, the “Pensions Discovery Motions”) to the April Omnibus Hearing, scheduled to take place on **April 22, 2020**. In support of the Joint Motion, the Parties respectfully represent as follows:

BACKGROUND

1. On June 18, 2019, Ambac filed the Pensions Discovery Motions (Dkt. Nos. 7505, 7507). On June 19, 2019, the Title III Court referred Ambac’s *Motion for Entry of Order Authorizing Discovery Under Bankruptcy Rule 2004 Concerning Pension Liabilities* to the Honorable Judith G. Dein pursuant to 28 U.S.C. § 636(b) (Dkt. No. 7514).

2. On July 9, 2019, Respondents filed their *Omnibus Opposition to the Pensions Discovery Motions* (Dkt. No. 7895) (“Opposition Brief”).

3. On July 23, 2019, Ambac submitted its reply in further support of the Pensions Discovery Motions (Dkt. No. 8230) (“Reply Brief”).

² The Movants and Respondents are collectively referred to as the “Parties.”

4. On October 23, 2019, Ambac requested additional information regarding the Commonwealth's pension liabilities (the "Supplemental Pensions Requests").

5. The Parties subsequently filed a number of motions seeking to adjourn the hearing on the Pensions Discovery Motions in order to allow the Parties to continue to meet and confer.³ The Court granted these motions.⁴

6. The Parties submitted joint status reports informing the Court of their progress on August 12, 2019 (Dkt. No. 8445), September 6, 2019 (Dkt. No. 8633), October 25, 2019 (Dkt. No. 8996), and December 6, 2019 (Dkt. No. 9496).

7. On January 23, 2020, the Parties filed their fifth joint status report (Dkt. No. 10325). At the same time, the Parties jointly filed an urgent motion (Dkt. No. 10327) seeking an order granting an adjournment of the hearing on the Pensions Discovery Motions in order to allow the Parties to continue to meet and confer and noting that the Oversight Board's motion to strike two Rule 2004 motions and to seek sanctions against Ambac (the "Motion to Strike") remained pending before the Court.⁵ The Court granted the motion, adjourning the hearing on the Pensions Discovery Motions to the omnibus hearing scheduled for March 4, 2020, and ordering the Parties to submit a sixth joint status report to the Court on the remaining issues for adjudication by February 27, 2020 (Dkt. No. 10376).

8. As set forth in the Parties' sixth joint status report, filed concurrently with this Joint Motion, the Parties continue to engage in good faith discussions in an attempt to narrow the remaining issues that require adjudication by this Court.

³ See Dkt. Nos. 8007, 8271, 8444, 8634, 8997, 9498.

⁴ See Dkt. Nos. 8017, 8291, 8447, 8638, 9006, 9518.

⁵ On January 23, 2020, the Court denied the Motion to Strike (Dkt. No. 10332).

RELIEF REQUESTED

9. By this Joint Motion, the Parties request an order granting an adjournment of the hearing on the Pensions Discovery Motions to the April Omnibus Hearing, scheduled to take place on **April 22, 2020**.

10. For the reasons set forth herein, as well as in the Parties' sixth joint status report, the Parties believe an adjournment of the hearing on the Pensions Discovery Motions to the April Omnibus Hearing is appropriate.

11. Pursuant to Paragraph 1.H of the *Tenth Amended Notice, Case Management and Administrative Procedures* (Case No. 17 BK 3283-LTS, ECF No. 8027-1), the Parties hereby certify that they have carefully examined the matter and concluded that there is a true need for an urgent motion; have not created the urgency through any lack of due diligence; have made bona fide efforts to resolve the matter without a hearing; have made reasonable, good-faith communications in an effort to resolve or narrow the issues that are being brought to the Court; and no party opposes the relief requested herein.

12. This is the Parties' eighth request for an adjournment of the hearing on the Pensions Discovery Motions.

Dated: February 27, 2020
San Juan, Puerto Rico

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CERTIFICATE OF SERVICE

I hereby certify that on this same date a true and exact copy of this notice was filed with the Clerk of Court using the CM/ECF system, which will notify a copy to counsel of record.

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